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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,405	01/04/2006	Artur Schworer	3450	4557
7590 01/06/2010				
Walter A Hackler Patent Law Office Suite B 2372 S E Bristol Street Newport Beach, CA 92660-0755			EXAMINER SAFAVI, MICHAEL	
			ART UNIT 3637	PAPER NUMBER
			MAIL DATE 01/06/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/563,405

Applicant(s)

SCHWORER, ARTUR

Examiner

MICHAEL SAFAVI

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 13, 14, 16 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11, 13, 14, 16 and 19-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 16, 2009 has been entered.

Amendment

Applicant's amendment of October 16, 2009 is not in full compliance with 37 CFR 1.121(c).

All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims having the status of "currently amended," or "withdrawn" if also being amended, shall include markings.

It has been noted that at least claim 16 appears with the status identifier "Currently Amended" when there appears no markings indicating any changes to the claim.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 23 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not appear to have originally disclosed "wherein the wedge guiding direction encloses an angle α with a common plane of the shell element skins, with $0^\circ \leq \alpha \leq 10^\circ$ ".

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 is vague and indefinite in that it is not clear as to what is being defined by "the openings of each device are disposed on only by one of the claws of the

respective turnbuckle device". Lines 2-3, "the respective turnbuckle device" lacks antecedent basis within the claim. It is therefore, not clear as to what "the respective turnbuckle device" refers.

Claim 23 is vague and indefinite in that it is not clear as to what is being defined by "wherein the wedge guiding direction encloses an angle α with a common plane of the shell element skins, with $0^\circ \leq \alpha \leq 10^\circ$ ". It is not clear as to what is being defined by "with $0^\circ \leq \alpha \leq 10^\circ$ ". It is not clear as to what is being defined by "wherein the wedge guiding direction encloses an angle α with a common plane of the shell element skins". The specification does not appear clear and complete as to "wherein the wedge guiding direction encloses an angle α with a common plane of the shell element skins". Line 6, to which turnbuckle device does "the turnbuckle device" refer? Line 12, "the wedges of the turn buckle devices" does not appear to possess antecedent basis within the claim. It is therefore, not clear as to what "the wedges of the turnbuckle devices" refers. Claim 23 does not appear to set forth that each turnbuckle device possesses two claws and a wedge.

Further, claims 16 and 23 variously recites "turnbuckle devices" or "turnbuckle device" when it does not appear that the instant disclosure presents any turnbuckle device. The disclosure does not appear to set forth "a link or sleeve with a swivel at one end and an internal screw thread at the other, or with an internal screw thread at each end, used as a means of uniting or coupling, and of tightening, two parts, as the ends of two rods", *Random House Unabridged Dictionary*. Therefore, it is not clear as to how the "turnbuckle device" serves to operate within the invention of claims 10-19.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 20, 11, 16, 19, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by European Patent Application 0552621 (EP '621). EP '621 discloses, Figs. 1 and 2, concrete shell elements 16, 17; at least one device 2/3 for clamping the concrete shell elements to one another, the devices having spaced apart opposing claws 14, 15 displaceable toward one another in a clamping direction, the claws being configured for guiding one another for enabling the displacement toward one another; teeth, (col. 2, line 30), disposed on one of the claws, said teeth being slanted at an angle with respect to the clamping direction; a wedge 9 disposed through claw openings 11, (beginning and ending), for causing displacement of the claws upon movement of the wedge within the openings in a wedge guiding direction said guiding direction being at an angle with respect to said clamping direction, (Fig. 2 and col. 2, lines 37-39); grooves disposed in said wedge, (col. 2, lines 30-32), for engaging said teeth for causing the displacement of the claws upon movement of the wedge with the

openings. Wedge 9 can be seen as tapered, as from 10 to 9, or can be seen as constant cross-section, as along 9.

Claims 20, 16, 19, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by German Offenlegungsschrift DE 3545273 (DE '273). DE '273 discloses, Figs. 1, 2, 4 and 7 for example, concrete shell elements 1, 1; at least one device 11 for clamping the concrete shell elements to one another, the devices having spaced apart opposing claws 12, 13 displaceable toward one another in a clamping direction, the claws being configured for guiding one another for enabling the displacement toward one another; teeth 24 disposed on one of the claws, said teeth being slanted at an angle with respect to the clamping direction; a wedge 34 disposed through claw openings 30 for causing displacement of the claws upon movement of the wedge within the openings in a wedge guiding direction said guiding direction being at an angle with respect to said clamping direction; grooves 35 disposed in said wedge for engaging said teeth for causing the displacement of the claws upon movement of the wedge with the openings. Wedge 34 can be seen as tapered, as from either end to a central portion thereof, or can be seen as constant cross-section, as along central portion thereof. The wedges of the DE '273 device are positioned inclined with respect to the straight lie by virtue of at least a portion of the wedge 32/34 inclined as can be seen in Fig. 2, (as along 32 for example), or by virtue of at least a portion of the wedge 45/46, (as along 48), inclined as can be seen in Fig. 7. The guiding direction of the wedge of DE '273 is "inclined at an angle...with respect to the clamping direction" by

virtue of the wedge 32/34 or 45/46 being at an angle with respect to the clamping direction.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-23 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over European Patent Application 0552621 (EP '621).

Examiner believes that EP '621 has "a plurality of the devices" or "multiple mounting positions...the mounting positions being spaced apart from one another and aligned on a straight line". However, to have provided the concrete form of EP '621 with any number of a plurality of "devices" along a pair of adjacent forms 16, 17, thus accounting for any given height of form that may be utilized at the time, would have been obvious to one having ordinary skill in the art at the time the invention was made.

Claims 21-23 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over German Offenlegungsschrift DE 3545273 (DE '273).

Examiner believes that DE '273 has "a plurality of the devices" or "multiple mounting positions...the mounting positions being spaced apart from one another and aligned on a straight line". However, to have provided the concrete form of DE '273 with any number of a plurality of "devices" along a pair of adjacent forms 1, 1, thus accounting for any given height of form that may be utilized at the time, would have been obvious to one having ordinary skill in the art at the time the invention was made.

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Application 0552621 (EP '621).

Forming the EP '621 wedge 9 at an angle of between 40 degrees and 85 degrees including at approximately 45 degrees with the clamping direction of the claws, thus allowing easier access to the EP '621 wedge device, would have been obvious to one having ordinary skill in the art at the time the invention was made. See Fig. 3 of EP '621 for example.

Response to Arguments

Applicant's arguments filed October 16, 10, 2009 have been fully considered but they are not persuasive. The wedge 9 of EP '621 does effectively slide along and within the claw openings 11 with the rotation of member 9 translating into a sliding motion. Thus, EP '621 effects "translational sliding". The element 9 of DE '621 is therefor, the equivalent in structure, function, and result as the wedge of the present invention. Further, the wedge of EP '621 is "inclined at an angle...with respect to the clamping direction" as well as being "inclined with respect to the straight line". The "straight line"

for example, going into the paper of Fig. 2 with the wedge 9 inclined with respect thereto. Likewise, the wedge 9 can be seen as "inclined at an angle...with respect to the clamping direction", the clamping direction being for example, along a line from 22 to 23.

As for DE '273 and Applicant's argument that "there is no inclination of the wedge guided direction", as set forth in the above rejection involving DE '273 the guiding direction of the wedge of DE '273 is "inclined at an angle...with respect to the clamping direction" by virtue of the wedge 32/34 or 45/46 being at an angle with respect to the clamping direction, (i.e., the guiding direction deviating from the clamping direction). The wedges of the DE '273 device are positioned inclined with respect to the straight line by virtue of at least a portion of the wedge 32/34 inclined as can be seen in Fig. 2, (as along 32 for example), or by virtue of at least a portion of the wedge 45/46, (as along 48), inclined as can be seen in Fig. 7.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL SAFAVI whose telephone number is (571)272-7046. The examiner can normally be reached on Mon.-Fri., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen Shriver can be reached on (571) 272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/Michael Safavi/
Primary Examiner, Art Unit 3637

M. Safavi
December 28, 2009